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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/603,174	06/23/2000	Niel Robertson	SERVICE METRICS	1321

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EXAMINER

BAROT, BHARAT

ART UNIT	PAPER NUMBER
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2155

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DATE MAILED: 03/24/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/603,174

Applicant(s)

ROBERTSON ET AL.

Examiner

Bharat N Barot

Art Unit

2155

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 January 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 09.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

RESPONSE TO AMENDMENT

The old rejection maintained

1. The rejection is respectfully maintained as set forth in the last Office Action (Paper Number 08) mailed on October 06, 2003.

Claim Rejections - 35 USC § 102

2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

3. Claims 1-9 are rejected under 35 U.S.C. 102(e) as being anticipated by Sathyanarayan et al (U.S. Patent No. 6,304,904).

Sathyanarayan's patent discloses all the limitations for the claims 1-9 recited in the claimed invention.

4. As to claim 1, Sathyanarayan et al teach a method for internet performance monitoring and analysis (figure 1; column 1 lines 34-62; and column 2 lines 10-47) comprising the steps of: collecting web page object-level data (column 5 lines 39-67); and measuring access to web page objects (column 6 lines 12-52; and column 8 lines 5-51).

5. As to claim 2, Sathyanarayan et al teach that the step of measuring further captures non-speed based information including errors during download (firewall check), source of content by EP address (UIRL), and type of content (image) that an object represents (figure 1; and column 2 lines 10-34).
6. As to claim 3, Sathyanarayan et al teach that the step of collecting further comprises collecting web page object-level data with at least one data collection agent (figure 2).
7. As to claim 4, Sathyanarayan et al teach that the step of measuring utilizes standard HTTP protocol to interact with a web server (column 3 lines 34-47).
8. As to claims 5-6, Sathyanarayan et al teach that the step of requesting data be transferred from one source to another, wherein the step of requesting occurs automatically (figure 2; and column 2 line 54 to column 3 line 6).
9. As to claim 7, Sathyanarayan et al teach that the step of measuring further comprises parsing and recognizing other objects referenced in a content returned that need to be retrieved as well (figure 2; and column 3 lines 7-20).

10. As to claim 8, Sathyanarayan et al teach that the step of retrieving the other objects referenced in the content (figure 2; and column 3 lines 34-64).

11. As to claim 9, Sathyanarayan et al teach a system for performance monitoring and analysis through a computer network comprising: at least one agent connected to said computer network and under the control of software to: collect the object-level data and measure access parameters including performance metrics for objects of a web page while the collection of the object-level data occurs; and a user interface component to receive measurement data from said agent (abstract; figures 1-3; column 1 lines 34-62; column 2 line 10 to column 4 line 25; column 5 lines 39-67; column 6 lines 12-52; and column 8 lines 5-51).

Claim Rejections - 35 USC § 103(a)

12. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

13. Claims 10-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sathyanarayan et al (U.S. Patent No. 6,304,904).

14. As to claim 10, Sathyanarayan et al teach a system for performance monitoring and analysis of web pages from a server through a global computer network comprising: a agent located at distributed points throughout said global computer network; said agent being under the control of software to collect object level data and to measure access parameters while the collection of the object-level data occurs; and a monitoring component to receive measurement data from said agent (abstract; figures 1-3; column 1 lines 34-62; column 2 line 10 to column 4 line25; column 5 lines 39-67; column 6 lines 12-52; and column 8 lines 5-51).

Sathyanarayan et al do not explicitly teach a system for performance monitoring and analysis of web pages from a server through a global computer network comprising: a plurality of agents located at distributed points throughout said global computer network.

However, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to use a plurality of agents located at distributed points throughout said global computer network incorporate with the method of Sathyanarayan et al because doing so would have made the system for performance monitoring and analysis of web pages from a server through a global computer network more efficient and utilizable. Duplicate parts for multiple effects are generally not given patentable weight or would have been obvious for improvements.

15. As to claims 11-22, Sathyanarayan et al teach that means for determining the time for a customer to view a Web page, means for measuring variations a web site's performance by regional location or the network connectivity of the end-user, means for determining a customer's experience by time of day and day of the week, means for determining the origination of Internet related performance problems, means for comparing download performance compared to industry standards or competitive Web sites, means for monitoring download performance changes since the last hardware/software/design investment to the web site, means for monitoring access refusals due to traffic overload, means for monitoring the rate that incomplete pages served, means for monitoring performance over time to obtain performance trends as to whether web site access is getting better or worse over time, means for monitoring performance in relation to performance thresholds such as corporate goals and acceptable levels, means for determining web site performance improvements, and means for determining vendor weaknesses contributing to poor Web site performance (abstract; column 4 line 26 to column 8 line 3; and column 8 lines 5-51).

Response to Arguments

16. Applicant's arguments with respect to claims 1-22 filed on January 06, 2004 (Paper Number 10) have been fully considered but they are not deemed to be persuasive for the claims 1-22.

17. In the remarks, the applicant argues that:

a. Argument: Sathyanarayan et al do not teach measuring access to web page objects, as recited in claim 1.

Response: Sathyanarayan et al teach the steps of collecting page-level information including total latency, connect time, object s compressed, percent reduction in bytes transferred per page, and the number of objects (images, audio, text, etc.) (Column 5 lines 39-67) which implies that collecting web page object-level data; and measuring a variety of page-level metric including end-to-end page latency, time taken to compress each page, latency reduction, percent fewer bytes transferred to the device, original and compressed page sizes, average of original and compressed object sizes, and the number of effected objects/images (column 6 lines 12-52; and column 8 lines 5-51) which implies that measuring access to web page objects (column 6 lines 12-52; and column 8 lines 5-51).

b. Argument: Sathyanarayan et al do not teach measuring object-level performance for objects on a web page.

Response: Sathyanarayan et al teach the step of measuring object-level performance for objects on a web page (column 5 lines 53-67; and column 6 lines 18-52).

c. Argument: Sathyanarayan et al teach every element except a plurality of agents located at distributed points throughout said global computer network.

Response: However, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to use a plurality of agents located at distributed points throughout said global computer network incorporate with the method of Sathyanarayan et al because doing so would have made the system for performance monitoring and analysis of web pages from a server through a global computer network more efficient and utilizable. Duplicate parts for multiple effects are generally not given patentable weight or would have been obvious for improvements.

d. Argument: Sathyanarayan et al teach the limitations, as recited in the claims 14 and 22.

Response: Sathyanarayan et al disclose a means for determining the origination of Internet related performance problems (column 7 lines 48-58); and means for determining vendor weaknesses contributing to poor Web site performance (column 7 line 59 to column 8 line 3; and column 8 lines 36-51).

18. This action is made final. See M.P.E.P. § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 C.F.R. § 1.136(a).

A SHORTENED STATUTORY PERIOD FOR RESPONSE TO THIS FINAL ACTION IS SET TO EXPIRE THREE MONTHS FROM THE DATE OF THIS ACTION. IN THE EVENT A FIRST RESPONSE IS FILED WITHIN TWO MONTHS OF THE MAILING DATE OF THIS FINAL ACTION AND THE ADVISORY ACTION IS NOT MAILED UNTIL AFTER THE END OF THE THREE MONTH SHORTENED STATUTORY PERIOD, THEN THE SHORTENED STATUTORY PERIOD WILL EXPIRE ON THE DATE THE ADVISORY ACTION IS MAILED, AND ANY EXTENSION FEE PURSUANT TO 37 C.F.R. § 1.136(a) WILL BE CALCULATED FROM THE MAILING DATE OF THE ADVISORY ACTION. IN NO EVENT WILL THE STATUTORY PERIOD FOR RESPONSE EXPIRE LATER THAN SIX MONTHS FROM THE DATE OF THIS FINAL ACTION.

Contact Information

19. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bharat Barot whose telephone number is (703) 305-4092. The examiner can normally be reached on Monday-Friday from 9:30 AM to 6:00 PM.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Alam, Hosain, can be reached at (703) 308-6662. A central official fax number is (703) 872-9306.

Any inquiry of general nature or relating to the status of this application should be directed to the group receptionist whose telephone number is (703) 305-3900.

Patent Examiner Bharat Barot

Art Unit 2155

March 09, 2004



**BHARAT BAROT
PRIMARY EXAMINER**